

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

IN RE:

JOSEPH BUTRICO
NICOLE BUTRICO
106 Holly Tree Ln
Hampstead, NC 28443
SSN: xxx-xx-3473
SSN: xxx-xx-

Debtor(s).

Case No. 18-05727-5-SWH
Chapter: 13

**MOTION FOR RELIEF FROM AUTOMATIC STAY
(Re: 2016 Dodge Grand Caravan)**

COMES NOW Navy Federal Credit Union ("NFCU"), by and through counsel, and in support of its Motion for Relief from Automatic Stay, would state and show unto the Court as follows:

1. On March 10, 2016, Joseph Butrico ("Debtor") entered into a Promissory Note, Security Agreement and Disclosure ("Contract") with NFCU regarding the purchase and financing of a 2016 Dodge Grand Caravan, VIN 2C4RDGCG1GR225704 ("Vehicle"). A true and correct copy of said Contract is attached hereto and incorporated by reference.

2. To secure the amounts advanced by NFCU, the Debtor granted to NFCU a security interest in the Vehicle. NFCU holds a validly perfected, first priority purchase-money security interest in the Vehicle, as noted on the Certificate of Title issued by the State of North Carolina. A true and correct copy of the Certificate of Title is attached hereto and incorporated by reference.

3. On November 28, 2018 ("Petition Date"), the Debtor commenced this bankruptcy case by filing a voluntary petition for relief under Chapter 13 of the Bankruptcy Code.

4. The Debtor's confirmed Chapter 13 Plan provides that NFCU's secured claim is to be paid directly by the Debtor outside the Plan.

5. NFCU seeks relief from the automatic stay on grounds of the Debtor's payment defaults under the Contract. The Debtor is in payment default under the Contract in the amount of \$1,700.60 (representing \$17.48 of the March 9, 2019 monthly payment and the full April 9, 2019 through July 9, 2019 monthly payments of \$420.78 each). NFCU last received a payment on July 12, 2019 in the amount of \$421.00, which payment was applied to satisfy the monthly payment due on February 9, 2019.

6. The payoff amount due under the Contract is \$22,852.74.

7. The NADA retail clean value of the Vehicle, assuming average mileage, is \$15,375.00.

8. Pursuant to 11 U.S.C. § 362(d)(1), sufficient cause exists, including lack of adequate protection, for termination of the automatic stay as to NFCU, the Vehicle and the proceeds thereof.

9. Pursuant to 11 U.S.C. § 362(d)(2), sufficient cause exists, including lack of equity and the Vehicle not being necessary to an effective reorganization, for termination of the automatic stay as to NFCU, the Vehicle and the proceeds thereof.

WHEREFORE, the above premises considered, NFCU prays that:

1. NFCU be granted immediate relief from the automatic stay provisions of 11 U.S.C. § 362 in order that it may proceed with any and all remedies available under state and/or federal law that are not inconsistent with Title 11 of the United States Code, including but not limited to taking immediate possession of and liquidating the Vehicle.

2. NFCU be granted such other and further relief to which it may be entitled.

Respectfully submitted,

/s/ Jacob Zweig

Jacob Zweig (NC State Bar No. 38641)
Attorney for Navy Federal Credit Union
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SSN: xxx-xx-6108

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NOTICE OF MOTION FOR RELIEF FROM AUTOMATIC STAY

Navy Federal Credit Union (“NFCU”) has filed papers with the Court seeking relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion, then on or before August 22, 2019, unless otherwise ordered, you or your attorney must file with the Court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at:

U.S. Bankruptcy Court, P.O. Box 791, Raleigh, NC 27601

If you mail your response and request for hearing to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

You must also send a copy to:

Jacob Zweig
Evans Petree PC
1715 Aaron Brenner Drive, Suite 800
Memphis, TN 38120

Joseph A. Bledsoe, III
Chapter 13 Trustee
P.O. Box 1618
New Bern, NC 28563

If a response and request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion and response at a date, time and place to be later set and all parties will be notified accordingly.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

DATE: July 29, 2019

/s/Jacob Zweig

Jacob Zweig (NC State Bar No. 38641)
Evans Petree PC
1715 Aaron Brenner Drive, Suite 800
Memphis, TN 38120

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CERTIFICATE OF SERVICE

I, Jacob Zweig, of the law firm of Evans Petree PC, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age.

That on July 29, 2019, I electronically filed the foregoing Motion, with Exhibits and Notice of Motion, with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties listed below. I further certify that I have mailed the document to the non CM/ECF participants as set out below by first class mail.

I certify under penalty of perjury that the foregoing is true and correct.

DATE: July 29, 2019

/s/Jacob Zweig
Jacob Zweig (NC State Bar No. 38641)
Evans Petree PC
1715 Aaron Brenner Drive, Suite 800
Memphis, TN 38120

RECIPIENTS:

Joseph Butrico & Nicole Butrico (U.S. Mail)
106 Holly Tree Ln
Hampstead, NC 28443

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Debtors' Attorney
4022 Shipyard Blvd.
Wilmington, NC 28403

Joseph A. Bledsoe, III (CM/ECF)
Chapter 13 Trustee
P.O. Box 1618
New Bern, NC 28563